



PROTECTING HAWAII'S OHANA, CHILDREN, UNDER SERVED, ELDERLY AND DISABLED

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TO: Representative Karl Rhoads, Chair
Representative Joy A. San Buenaventura, Vice Chair
Members, House Committee on Judiciary

FROM: Scott Morishige, MSW
Executive Director, PHOCUSED

HEARING: **Thursday, March 5, 2015 at 2:00 p.m. in Conf. Rm. 325**

Testimony in Support of HB858 HD1, Relating to Domestic Violence.

Thank you for the opportunity to provide testimony in **strong support** of HB858 HD1, which would permit the termination of residential rental agreements in cases of domestic violence. PHOCUSED is a nonprofit membership and advocacy organization that works together with community stakeholders to impact program and policy change for the most vulnerable in our community, including victims of domestic violence.

Our membership includes organizations, such as Child & Family Service, Parents & Children Together, and Domestic Violence Action Center, which serve victims of domestic violence and their families. Through the work these organizations do every day, they can attest firsthand that the inability to exit a rental agreement quickly and without penalty or fees often serves as a barrier that prevents a victim from leaving an abusive relationship.

In addition, under our current system, if a victim does break a rental agreement to exit a dangerous situation, they are often unable to pay fees or other penalties associated with breaking the agreement and this information may negatively impact the victim's credit. Poor credit then makes it more difficult for a victim of domestic violence to secure new housing for themselves and their family.

HB858 would enable victims of domestic violence to exit early from a residential agreement, upon showing written documentation of their situation (i.e. copy of an order of protection, copy of a police report, etc.). We see this bill as a critical step to strengthen protections for victims of domestic violence in our community.

Once again, PHOCUSED strongly urges your support of this bill. If you have any questions, please do not hesitate to contact PHOCUSED at 521-7462 or by e-mail at admin@phocused-hawaii.org.

Submitted By	Organization	Testifier Position	Present at Hearing
Ann S Freed	Hawaii Women's Coalition	Support	No

Comments: I am in support of this bill which according to our DV providers will remove a substantial obstacle to victims of Domestic violence. "Housing barriers are one of the main reasons a victim of domestic violence becomes homeless, or remains in the violent relationship." Please pass this bill. Mahalo



To: Chair Rhoads, Vice Chair San Bonventura and Members of the Committee on Consumer Protection & Commerce
From: Edwin K. Flores, Ala Kuola
Hearing Date and Time: March 5, 2015, 2:00 p.m.
Re: HB858

Good afternoon Chair Rhoads, Vice Chair San Bonventura and Members of the Committee. My name is Edwin K. Flores and I am writing this on behalf of the Hawaii Family Law Clinic aka Ala Kuola. We are a non-profit organization that provides services to victims of domestic violence on Oahu. Specifically, we assist the victims of domestic violence to obtain protective orders (TROs) through the Family Court. Ala Kuola also provides a domestic violence prevention program to various high schools athletic departments on the islands of Oahu, Hawaii and Kauai.

Ala Kuola strongly supports HB 858. Too many times victims of domestic violence are further penalized by being forced to stay in a premises that has become economically unfeasible or face imposition of civil penalties if they fail pay their rent or are compelled to vacate prior to expiration of the lease. HB 858 contains protections not only for the victims of domestic violence, but also for landlords to prevent fraudulent claims to avoid rental leases.

Thank you for allowing us to provide testimony in strong support of HB 858.

Hawaii Family Law Clinic aka Ala Kuola
550 Halekauwila Street, Suite 207
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Tel: (808) 545-1880
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March 2, 2015

To: Representative Karl Rhoads, Chair
Representative Joy A. San Buenaventura, Vice-Chair
HOUSE COMMITTEE ON JUDICIARY

From: Marci Lopes, Executive Director
Hawaii State Coalition Against Domestic Violence

RE: HB 858 – STRONG SUPPORT

PLACE: Conference Room 325

DATE and TIME: Thursday, March 5, 2015 2:00 p.m.

The Hawaii State Coalition Against Domestic Violence is a statewide partnership of 21 domestic violence program and domestic violence shelter providers on 6 of our Hawaiian Islands. Our mission is to engage communities and organizations to end domestic violence through education, advocacy, and action for social justice.

The Hawaii State Coalition Against Domestic Violence is in strong support of HB 858, which allows for an early termination of tenancy for a victim of domestic violence. Housing barriers are one of the main reasons a victim of domestic violence becomes homeless, or remains in the violent relationship. We are inspired by the Committees work and desire to help eliminate barriers and improve the systems response to be more supportive of victims of domestic violence and their children.

While we support the intent of HB 858, our concern is that not all victims of domestic violence are willing to apply for, or are in fact awarded a TRO/PO even when violence has occurred, or the victims is living in fear. We would like the committee to consider the recommendation that a victim could also provide a letter on agency letterhead stating that she is working with a domestic violence advocate, or one of the HSCADV member programs.

The Hawaii State Coalition Against Domestic Violence in collaboration with the Oahu Judiciary is currently undergoing an Oahu Community Safety Assessment **CSA** to examine how our current TRO/PO application and issuance process allows us to keep victims safe, and to hold abusers accountable. The CSA started in January of 2015 and will conclude in April of 2015. A team made up of a multidisciplinary team including a community domestic violence survivor, HPD, DAG, DVAC, DHS, Judiciary First Circuit Court ACSB and HSCADV staff.

We have heard many horrible stories over the years about the difficulties with the TRO and service process. We support any efforts that are being made to improve systems and services to assist victims of domestic violence and their families. It is a difficult decision and it takes a tremendous amount of courage to attempt to obtain a TRO, and it is our responsibility as a State to ensure we are doing as much as we can to make needed improvements to our systems, and to ensure we are providing the best services available.

HB 858 can improve the conditions for victims of domestic violence, and can potentially prevent victims from becoming homeless or burdened with debt and a poor credit rating that would prevent them from securing future housing. We urge the Committee to pass HB 858, and we would like to thank the Committee for your hard work, and all of the efforts being made to keeping victims of domestic violence and their children safe.

We hope the committee would look to the Hawaii State Coalition Against Domestic Violence membership and our Survivor Action Committee as a resource and source of support for any needed recommendations.

Marci Lopes, Executive Director



CATHOLIC CHARITIES HAWAII

Testimony in Support of HB 858, HD1 Relating to Domestic Violence.

TO: Representative Karl Rhoads, Chair
Representative Joy San Buenaventura, Vice Chair
Members, Committee on Judiciary

FROM: Trisha Kajimura, Social Policy Director

HEARING: **Thursday, March 5, 2015 at 2:00 p.m. in Conf. Rm. 325**

Thank you for the opportunity to provide **testimony in support of HB 858, HD1**, which would permit the early termination of residential rental agreements in cases of domestic violence.

Catholic Charities Hawai'i (CCH) is a tax exempt, non-profit agency that has been providing social services in Hawai'i for over 60 years. CCH has programs serving individuals, elders, children, developmentally disabled, homeless and immigrants. Our mission is to provide services and advocacy for the most vulnerable in Hawai'i.

As part of program services, CCH provides individual and group counseling services for domestic violence victims. CCH also provides services to prevent homelessness and help homeless people obtain and maintain housing.

The issue of housing is a critical one for domestic violence victims and complicates the situation for victims wanting to leave their abusive household. Housing and where a victim and her children will stay if she leaves her abuser is a major consideration for victims. Being locked into a lease may prevent a victim from leaving her abuser as she considers her financial resources and ability to find a new place to live if she were to leave. A victim who has a rental lease agreement and the ability to pay rent needs the opportunity to leave her abuser and spend her income on rent at a home without her abuser. We do not want that victim's ability to be self-sufficient to be hampered by bad credit, rent payments for a place she does not live in, or penalty fees from breaking her old lease.

Thank you for your support. We appreciate this opportunity to bring to light one of the housing challenges faced by victims of domestic violence. Please consider supporting this bill and helping to strengthen policy that protects victims of domestic violence.

Please contact me at (808)527-4810 or trisha.kajimura@catholiccharitieshawaii.org if you have any questions.



CLARENCE T. C. CHING CAMPUS • 1822 Ke'eumoku Street, Honolulu, HI 96822
Phone (808)527-4810 • trisha.kajimura@CatholicCharitiesHawaii.org



March 5, 2015

The Honorable Karl Rhoads, Chair

House Committee on Judiciary
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: H.B. 858, H.D.1, Relating to Domestic Violence

HEARING: Thursday, March 5, 2015, at 2:00 p.m.

Aloha Chair Rhoads, Vice-Chair San Buenaventura, and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,400 members. HAR **supports the intent and offers amendments** on H.B. 858, H.D.1 which permits the termination of residential rental agreements in case of domestic violence and specifies additional procedures under the Residential Landlord-Tenant Code for instances of domestic abuse.

HAR appreciates what this measure is trying to accomplish in protecting domestic violence victims, and recommends the following amendments to ensure there are no unintended consequences.

Under this measure, if there are multiple tenants, the security deposit will remain with the unit until everyone vacates. At that time, the deposit will be refunded in the name of those who originally signed the Rental Agreement. This would mean the victim and abuser would need to get together to divide up the deposit, which may create an uncomfortable and unnecessary situation. Rather, it would make logistical sense to allow the security deposit to be refunded at the discretion of the landlord.

HRS 521-A, (c), Page 2-3 and HRS 521-C, (c), Page 10:

Request that verbiage be added to allow the security deposit to be returned as determined by the court or parties in writing as to what percentage share of the security deposit each tenant is to receive. If this is not done the landlord should be allowed to refund the security deposit at in equal shares to each tenant on the rental agreement.

Finally, HAR respectfully requests a November 1, 2015, effective date to allow us to review and make necessary changes to our Rental Agreement.

Mahalo for the opportunity to testify.



TO: Chair Karl Rhoads
Vice Chair Joy San Buenaventura
Members of the Committee

FR: Nanci Kreidman, M.A

RE: HB 858 Support Intent

Aloha. And thank you for scheduling this Bill for hearing. This is an issue of great importance, and deserves the legislature's attention.

The ability to terminate a rental agreement when risk is present is crucial for a survivor and her family. It is understandable that proof of victimization is desired. There are, however, many reasons a survivor may not have sought protection or made a report to law enforcement. It would be advisable, to honor the intent of this initiative to allow a statement provided by the survivor about participation in a community program or confirmation about engagement with a community agency, like the Domestic Violence Action Center. We assume an attested third party would be a community agency?

Making decisions about separating from an abuser are not made easily, or without recognition about the peril. Undertaking the ordeal of escaping from an apartment, likewise, has its risks and costs.

It should be recognized that recovering costs from the person who committed the domestic violence may result in retaliation or violence against the tenant (who is terminating the lease). In order for the landlord to recover costs from the perpetrator, someone would have to have informed the landlord who was responsible for the violence and or the damage. This places the survivor at risk.

The language requiring the name and address of the attesting third party – if it is not a community agency may place the person/neighbor/family member in danger. (page 6, Section (6), line 16). This should be considered. Is it necessary to include great specificity in the law requiring acknowledgement that the statements are true, and verifying the tenants statements and attesting to the fact they believe the tenant? (page 7 (9) and (10)).

Thank you for your careful, discriminating attention to HB 858 HD1.

LATE

Testified By	Organization	Testifier Position	Present at Hearing
Dara Carlin, M.A.	Individual	Support	No

Submitted By	Organization	Testifier Position	Present at Hearing
Skye	Individual	Oppose	No

Comments: This will add to the homelessness that already exist. To kick out people that are already going through it, instead of forcing counseling or locking up the abuser, you create another barrier that makes the victim more vulnerable to more abuse if they are kicked into the streets and rejected from shelter due to wait list that exist for all women shelters now.

Submitted By	Organization	Testifier Position	Present at Hearing
Heather Lusk	Individual	Support	No

Comments:

Rep. Karl Rhoads, Chair
Rep. Joy A. San Buenaventura, Vice Chair
COMMITTEE ON JUDICIARY

Rep. Angus L.K. McKelvey, Chair
Rep. Justin H. Woodson, Vice Chair
COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

David W.H. Chee, Esq.
808-539-1150
dchee@tqlawyers.com

March 3, 2015

RE: H.B. 858, Relating to Domestic Violence

HEARING: March 5, 2015 at 2:00 p.m.

Dear Committee Members:

I am an attorney who practices in the field of landlord/tenant law, including residential matters and am writing to express opposition to HB858 HD1 in its present form.

This legislation has several issues that passage in its current form problematic.

1. Lack of definition of “domestic violence.” The biggest issue with this legislation is that there is no definition of the phrase, “domestic violence” so there is no way to know when the law applies. Given the many definitions of the phrase that one can find through a Google search, it is apparent that choosing a definition that (1) specifically defines the type of behavior, and (2) provides sufficient guidance to citizens and courts will be difficult. For example, at what point does name-calling become behavior that triggers the protections of this statute?

Also, should there be a nexus between the rented premises and the domestic violence? For example, if the domestic violence occurs in California while the victim visits family, should that trigger the remedies provided by this statute? If a victim of domestic abuse receives a threatening email from an abuser who does not know where the victim resides, does the statute allow the victim to terminate his or her lease?

It is difficult to comment meaningfully on the details of this proposed legislation since, without a definition of domestic violence, it is not possible to determine how and when the statute would apply.

2. Multiple victims and perpetrators. The legislation assumes that a victim of domestic abuse will not also be a perpetrator. Whatever definition of domestic violence is used, it is not difficult to imagine a situation where the members of a couple become both victim and

perpetrator. In such case, the legislation does not make it clear whether either, both, or none of the persons are entitled to protection under the law.

3. Shifting losses to landlords and the public. This legislation would make landlords financial victims of domestic violence in which they have no part or control. Under current Hawaii law, if a tenant terminates their rental agreement early they are generally responsible for the rent lost by the landlord and other costs. The costs to a landlord of losing a tenant can be significant. When a replacement tenant must be found rent is lost and effort and expense must be incurred in advertising, screening, and commissions. Landlords generally expect to recoup those costs over the life of the lease, and also do not expect to have to repeat the same exercise until the lease ends.

This legislation would leave the landlord with all of these financial losses when events occur over which the landlord has no control. While the legislation does allow a landlord to pursue claims against the person who committed domestic violence against the tenant, it will rarely be practical for a landlord to pursue a non-tenant for losses. If such a claim were brought the landlord would need to find the perpetrator, sue them, then prove that the perpetrator committed an act of domestic violence that caused the tenant to break the lease. In all likelihood, the only witness who can testify to these facts will be the victim, who will not likely be willing to show up in court to face the abuser and give testimony against them.

No insurance policy is available to cover such losses, so landlords will need to make up for such losses in other ways. Since costs of business are always eventually passed on to the consumer, this legislation will result in higher costs to everyone who rents a home in Hawaii.

4. Disincentive to rent to victims of domestic violence. This law gives an incentive to landlords not to rent to persons who have been or may be victims of domestic violence. Landlords will recognize that they are exposed to a higher risk loss if they rent to persons who are more likely to become victims of domestic violence. Reasonable landlords may decide to avoid having tenants with a history of domestic violence, either as victim or perpetrator. This legislation might have the unintended consequence of making it more difficult for victims of domestic violence to find housing.

5. Long term leases. This legislation seems to have in mind relatively short-term leases. However, the way the legislation is presented it would equally apply to long-term leases of 30 years or more. In such cases, landlords would have the right to unilaterally terminate a long-term lease upon one of the tenant's election to terminate the lease. So, for example, if a husband and wife had a 30 year lease and took out a mortgage to build a large home, and the wife elects to terminate the lease because of domestic violence, a landlord could, because of its concern that husband did not have the independent finances to cover the lease, take over the property and the house, all without court intervention.

6. Ultimately, a victim who leaves a household where domestic violence occurs may not actually escape further violence. The violence can follow the victim from place to place. So, allowing victims to move without financial consequence does not solve the underlying problem.

Perhaps a different approach that should be explored is taking steps to effectively curb violence. For example, it may be more effective to increase penalties for domestic violence in order to deter its occurrence. Perhaps the legislature can make it easier for persons to obtain restraining orders against perpetrators and assist in expanding the network of shelters available.

Since the problem is not easily solved, it may also be beneficial to study what other States and countries have done to deter domestic violence.